

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DONALD HUERTA, et al.,

Plaintiffs,

vs.

Civ 01-968 RLP/DJS

CITY OF SANTA FE, et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER
DENYING DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

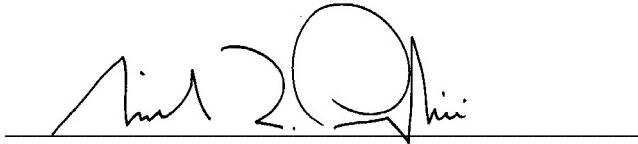
1. This matter comes before the court on the Motion of Defendants, City of Santa Fe, Santa Fe Police Department, Police Chief John Denko, Officers Stephen Altonji, Martin Bird and John Does 1-5 for Summary Judgment on a portion of Count One of Plaintiff's First Amended Complaint. (Docket No. 51). Defendants seek dismissal that portion of Count I which alleges violations of Plaintiffs' First Amendment Right to freedom of religion.

2. Summary judgment is appropriate only "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed.R.Civ.P. 56(c); *see also Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986). In reviewing the factual record, I construe all facts and make reasonable inferences in the light most favorable to the non-moving party. *See Byers v. City of Albuquerque*, 150 F.3d 1271, 1274 (10th Cir.1998).

3. Having reviewed Defendants' motion for summary judgment and the exhibits submitted by the parties, this court has concluded that at this stage, genuine issues of material fact remain, and that

Defendants' motion should be denied.

4. **IT IS HEREBY ORDERED** that Defendants' Motion for Partial Summary Judgment (Docket No. 51) be and hereby is denied.



Richard L. Puglisi
United States Magistrate Judge
(sitting by designation)